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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Letter dated 26 February 1997 from the Permanent Representative of Poland to the United Nations Office at Geneva addressed to the Secretary of the Commission on Human Rights

I have the pleasure to inform you that Germany, Poland and South Africa jointly organized, in Warsaw, on 30 and 31 January 1997, a workshop on "The Universal Declaration of Human Rights at the dawn of the XXI century: from acceptance to implementation". The representatives of over 30 countries, international organizations and leading non-governmental organizations participated in the workshop. The Warsaw seminar was organized in the context of the implementation of Commission on Human Rights resolution 1996/42, entitled "Preparations for the fiftieth anniversary of the Universal Declaration of Human Rights".

On behalf of the Permanent Missions of Germany, Poland and South Africa I would like to request that you kindly arrange for the circulation of this letter and the attached Summary of the Warsaw Workshop* as an official document of the Commission on Human Rights.

(Signed): Ludwik Dembiński
Ambassador

* The annex is reproduced as received in the language of submission only.

SUMMARY
of the workshop on
"THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AT THE DAWN OF THE XXI CENTURY: FROM ACCEPTANCE TO IMPLEMENTATION"
Warsaw, 30-31 January 1997

Co-organized by the Governments of Germany, Poland and South Africa, the Workshop was convened within preparations to the forthcoming 50th anniversary of the Universal Declaration of Human Rights (UDHR) as encouraged by resolution 1996/42 of the Commission on Human Rights. Its basic purpose has been to launch a wide ranging debate on the universal message of the Declaration and its further potentials for strenghtening promotion and protection and co-operation for human rights.

The workshop was attended by participants from 27 countries representing all the UN regional groups, from several international organizations, including the UN, UNESCO, Council of Europe, OSCE and non-governmental organizations, including International Service for Human Rights, Amnesty International and Human Rights Watch.

The theme of the workshop was addressed in three separate topical questions:
1. The Universal Declaration of Human Rights - basis for freedom, justice and peace in the world;
2. Universality of Human Rights Today - practical aspects;
3. Strategies and Mechanisms of the Implementation.

In the formal opening ceremony, chaired by the Secretaty of State in the Polish Foreign Ministry, Mr. Eugeniusz Wyzner, an address was delivered by the **President of the Republic of Poland, Mr. Aleksander Kwaśniewski**. The President emphasised the progress made by democracy in the world which constitutes a global manifestation of convergence in human rights, notwithstanding cultural diversity. The commitment of the Polish people to such values as democracy, human rights, fundamental freedoms, solidarity and tolerance contributed to the creation of the most powerful human rights movement in this part of Europe.

The workshop was also addressed by a Message from the **President of South Africa, Mr. Nelson Mandela**, delivered by H.E. Mr. Mendi Msimang, South Africa's High Commissioner to London. President Mandela reminded everyone that his country did not vote for the Declaration in 1948 but he declared formally and solemnly that his country accepted and supported the Universal Declaration. He added that South Africans joined their fellow world citizens in striving for the realization of the rights in the Universal Declaration and that it was time for all to re-dedicate themselves to those ideals.

A Statement by the United Nations **High Commissioner for Human Rights, Mr. Jose Ayala-Lasso**, was delivered by Mr. John Pace, Director in the Center for Human Rights. The High Commissioner expressed his conviction that the new century should be marked by a new Coalition for Human Rights in order to achieve that each human being remains at the centre of all the activities of the United Nations.

The first theme of the Workshop was concerned with the Universal Declaration of Human Rights as a basis for freedom, justice and peace in the world. Referring to this theme, as set out in the Preamble to the Declaration, the **Chairman** of this session, **Mr. Tan Sri Dato**

Musa Hitam, Leader of the Malaysian Delegation to the Commission on Human Rights invited the participants to address the question of continued validity and relevance of this message and how it can serve for the achievement of genuine freedom, justice and peace by the modern world.

There was general acceptance that the UDHR has not yet exhausted its potential for ensuring greater freedom and justice for individuals and groups, and through them indirectly, though significantly, for the maintenance of domestic peace and stability, and thus ultimately for preserving international peace and security. Although the Declaration was adopted as a reaction to the atrocities of World War II, it has become universally accepted "as common standard of achievement for all peoples and all nations". Firmly based on the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family, the Declaration maintains its strength as a source of inspiration and reference system for the struggle for human rights and fundamental freedoms. In this context, it has exerted influence on the decolonisation process, the eradication of apartheid and other massive violations of human rights as well as on the constitutions and domestic and international legislation on human rights. The Declaration has become a useful and powerful instrument for governments to improve their human rights performance, and more importantly, to enable civil society to exert pressure on governments.

The need for further international co-operation in the field was emphasised in contrast to attempts at criticising governments as violators of human rights and interfering in the domestic jurisdiction of states. By definition, "cooperation should be carried out among equal partners and with mutual respect". The same speaker called for recognition of the particularities and differences pertaining to the conditions of each country. Against this background, it has been pointed out however that the Declaration has played a crucial role in recognizing that human rights issues are no longer a matter for domestic jurisdiction solely and have become a legitimate concern of the whole international community. The shield of state sovereignty cannot to be resorted to as an excuse for depriving the international community from being concerned about human rights violations everywhere. Furthermore, respect for human rights would be under threat if there were no place for confronting arguments and problems in a constructive but adversarial way between the governments and non-governmental actors, be they domestic or international. The Declaration reflects a concept of collective responsibility of governments and the international community for human rights.

In this context inspirative potentials of the right of everyone to a social and international order for full realization of human rights was mentioned (Art. 28 UDHR). Reflecting both categories of rights, the Declaration calls for taking human rights in a holistic and mutually instrumental way for achievement of all human rights.

The introduction to the second session, on "Universality of Human Rights Today - practical aspects", was made by **Mr. G. Vergne Saboia**, Chairman of the UN Commission on Human Rights. In his statement, Ambassador Saboia stressed that the concept of certain inalienable rights was not exclusive of Western civilization and could be traced to numerous other religious and cultural origins. As to the issue of the universality of human rights, particularly in the context of its legitimacy as a concern and a matter of priority for the international community, he underlined that the universal nature of rights and freedoms set forth in the Declaration "was beyond question". He opposed the concept of "*clash of civilizations*" seen not only as a permanent and insurmountable barrier in international politics but also as a factor impeding the existence and the possibility of "universally shared values that cut across different cultural, political and economic systems". In his view, other actors, such as international organizations, NGOs, trade unions, large corporations or multinationals, must assume certain duties in the promotion of universal human rights and other social values, in a manner commensurate with their enhanced

status.

Special contributions to this session were made by **Mr. Peter Leuprecht**, Deputy Secretary General of the Council of Europe and **Mr. Hemant K. Singh**, Deputy Permanent Representative of India to the UN at Geneva. The first speaker opined that governments propagated the idea of a culturally relativistic approach to human rights far more than the populations of their countries. Human rights were today part of all cultures, and helped all cultures evolve. He was also opposed, as some other speakers, to the idea of a "clash of cultures" saying that instead there should be rather a civilizational cross-fertilization. Evoking the triad: universality - indivisibility - solidarity, Mr. Leuprecht stressed that the insufficient realization of one's principles affected others. He referred to the value of regional arrangements for the protection of universal rights. Mr. Singh said that the respect for human dignity which was the cornerstone of the UDHR and the concepts of the rule of law, were not exclusive to Western civilization and were found in many other cultures. Universality was not promoted by the perception that Western States championed certain rights and ignored others. The realization of the right to development must, like all other rights, be the collective responsibility of the international community. Mr. Singh strongly argued against politicization of the protection of human rights as sterile and counter productive. He regretted the tendency of some NGOs towards selectivity and double standards, thereby ignoring the interdependence of all human rights and undermining the concept of universality.

In the general discussion, many participants shared their opinions on the concept of "interference". One speaker claimed that under no circumstances should human rights ever be a justification in intervening in the internal affairs of other states. Another participant argued that international pressure had made some contribution to the succes of the struggle for freedom (in South Africa and Eastern Europe). One speaker raised the question of selectivity in invoking principles from the UN Charter in the context of the protection of human rights; some principles were often in use (non-interference, sovereignty) while others forbidden (good faith, self-determination). According to others, the Charter, the UDHR, human rights legal instruments have made subsequent breaches in the wall created around national sovereignty traditionally conceived.

In the view of some participants, closer cooperation between the Security Council and the Commission on Human Rights was needed to ensure social and international order in which the rights and freedoms of all individuals could be fully realized. According to Mr. Tadeusz Mazowiecki, such was also the main conclusion from his mandate as Special Rapporteur on the violations of human rights in former Yugoslavia. The human rights dimension should become an important part of the considerations and decisions made by international institutions shaping world order, including the G-7 and G-77.

The discussion also centred on the role of NGOs. Some participants were critical and argued that too much attention was being paid to NGOs, which were not democratic institutions, nor accountable to anyone, while others argued that individuals were not accountable either, yet their freedom of speech was recognised. One participant insisted that not all NGOs followed the same "line". They were bound by their mandates, which were different. NGOs often attacked the countries from which they received the greatest financial support.

While cultural diversity could be an antithesis of universality, common ground did exist. A participant listed differences of approach between East and West. In oriental countries, the rights of the collective always took precedence over those of the individual. Saving face was very important. It was not always a question of what was being said, but also how things were said. It was argued that it could be some cultural relativity in the context of implementation but never as an excuse for violations. Another participant raised the question: "How could there be dialogue about human rights when some countries considered even raising the matter to be

confrontational?".

Mr. Helmut Schafer, Minister of State in the German Federal Foreign Office, introduced the **third topic** "Strategies and Mechanisms for Implementing the Universal Declaration of Human Rights". In focussing on the United Nation and the UN system, he concentrated on three main areas:

- Strenghtening of institutions,
- Respecting human rights in crisis situations, and
- Promoting human rights, democracy and development.

He said that institutions working in the field of human rights, in particular the High Commissioner for Human Rights and the Centre, must be given the human and financial ressources they need to develop in-depth and long term activities. The High Commissioner needs to be present everywhere. He has to be in a position to respond positively to request for cooperation and, for example, to open human rights field offices. Some 1.8 % of the regular UN budget for human rights is far too little for meeting the enormous challanges. A 10 % share would be entirely appropriate, but realistically one should target 5 % for the turn of the millenium. Mr. Schafer also said that to ensure better protection for human rights in crisis situations there was a need for a presence on the ground. The question is not only linked to the UN's capacity to send observers into the field, but also depends on the way problems are dealt with at the political level (Security Council, Member States). Human rights field operations could make an important contribution to preventive diplomacy, for human rights violations often served as indicator of a crisis building up. While speaking on the right to development, Mr. Schafer stressed that it has to be seen as a human right meaning access for everyone to the widest possible participation in economic and social development. It is a duty of all countries to give their citizens the best possible opportunities for development. In realizing the right to development, equal priority must be given to all human rights, whether civil, political, cultural, economic or social rights.

Substantive contributions to the discussion during the third session were made by representatives of the UN High Commissioner for Human Rights (**Mr. Z. Kędzia**), the Helsinki Federation (**Mr. A. Rhodes**), and the International Commission of Jurist (**Mr. A. Dieng**). There was general consensus among them that although some optimism was justified five years after the adoption of the Programme of Action by the Conference in Vienna, the machinery to implement human rights obligations needed to be strenghtened further. This is the responsibility of the international community as a whole, not just one or few regional groups. 1998 - being the Year of Human Rights - presented an important opportunity to this end. To be effective, priorities have to be identified. Action should be guided by the VDPA principles of universality and co-operation as well as those referring to human rights as indivisible, interdependent and interrelated. Politically, more creativity was called for in using existing instruments more effectively. As to the political bodies dealing with human rights issues, it is felt that discussion has to be dedramatized. More attention should be given to cooperative approaches in implementing human rights.

The general discussion widely reflected the belief that implementation mechanisms should be strenghtened. With regard to the special procedures mandated by the Commission on Human Rights, it was stressed by one paricipant that these were by no means instruments in the hands of a single regional group to be used for confrontative purposes. It was felt, however, that too many such special procedures existed, and that their work should be streamlined. While cooperative approaches to the human rights violations were welcome wherever possible, cooperation should not be used as a pretext for avoiding a debate on such issues. For the human rights violations are often at the core of today's conflicts the need for more preventive action in protecting human rights was highlited by some speakers. Political will and moral leadership in order to shoulder new

responsibilities in the field of the conflict prevention was felt necessary.

The further strengthening of advisory services was called for by some participants, the main obstacle being insufficient funds. It was highlighted that, in view of fewer and fewer voluntary contributions offered by member states, this problem could only be solved by securing funding through the regular budget of the UN. Furthermore, some agreed with the introductory remarks that human rights field operations should be strengthened. As a concept, which was cooperative in nature, it could uniquely combine equally important aspects of observation of human rights violations as well as rendering of advisory services to a government. Efforts should be undertaken to make such operations more professional.

Some participants proposed specific steps that should be undertaken in the context of the 50th anniversary of the Universal Declaration on Human Rights. It was said that renewed efforts should be devoted to the ratification of the Covenants by those states which had not yet done so. Other important contributions could be the strengthening of national human rights institutions, educational programmes to create more human rights awarness, i.e. by wide use of new media, or the reform of treaty bodies. As to the latter, streamlining was called for to reduce duplication of work. It was also proposed to organise a High Level Segment at the 54th Human Rights Commission which could concentrate on identifying priorities for the implementation of human rights treaties or encourage discussion on the protection of the most vulnerable groups. Some speakers stressed that the adoption of the declaration on the protection of human rights defenders in 1998 would be a substantial contribution to the 50th anniversary of the UDHR. The opposite views were presented as regards the opportunity to begin reform of the Commission of Human Rights in the context of the anniversary of the UDHR.

In bringing **the final session** to a close, the Chairman came to a conclusion that the Workshop, its many interventions and the whole debate, represent a good starting point for continued preparations to the fiftieth anniversary of the Universal Declaration of Human Rights. He placed special emphasis on the demonstrated interest of experts representing Governments, international organizations as well as non-governmental organizations in the pursuit of discussion focused on the strengthening of the existing instruments for the protection and promotion of human rights worldwide.

From this angle, the fiftieth anniversary of the Universal Declaration must be seen by the UN family as a challenge and an opportunity, rather than a guarantee. The sponsors of the Warsaw Workshop look forward to further, sustained efforts confident that they will ultimately promote substantive progress in the realm of human rights.